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8
9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2009-213

13 SEAN WILLIAM PIERCE
200 Adobe Lane
14 Tracy, CA 95376

A C C U S A T I O N

15 Registered Nurse License No. 569251

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 ("Board"), Department of Consumer Affairs.

23 2. On or about July 26, 2000, the Board issued Registered Nurse License
24 Number 569251 to Sean William Pierce ("Respondent"). Respondent's registered nurse license
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 March 31, 2010, unless renewed.

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1 7. Code section 2765 states:

2 A plea or verdict of guilty or a conviction following a plea of nolo
3 contendere made to a charge substantially related to the qualifications, functions
4 and duties of a registered nurse is deemed to be a conviction within the meaning
5 of this article. The board may order the license or certificate suspended or revoked,
6 or may decline to issue a license or certificate, when the time for appeal has elapsed,
7 or the judgment of conviction has been affirmed on appeal or when an order
granting probation is made suspending the imposition of sentence, irrespective of
a subsequent order under the provisions of Section 1203.4 of the Penal Code
allowing such person to withdraw his or her plea of guilty and to enter a plea of
not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information or indictment.

8 8. California Code of Regulations, title 16, section 1444 states, in pertinent
9 part:

10 A conviction or act shall be considered to be substantially related to the
11 qualifications, functions or duties of a registered nurse if to a substantial
12 degree it evidences the present or potential unfitness of a registered nurse to
practice in a manner consistent with the public health, safety, or welfare . . .

13 COST RECOVERY

14 9. Code section 125.3 provides, in pertinent part, that the Board may request
15 the administrative law judge to direct a licensee found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17 and enforcement of the case.

18 FIRST CAUSE FOR DISCIPLINE

19 (Criminal Convictions)

20 10. Respondent is subject to disciplinary action pursuant to Code section
21 2761, subdivision (f), in that Respondent was convicted of crimes which are substantially related
22 to the qualifications, functions, and duties of a registered nurse, as follows:

23 a. On or about April 23, 2007, in the criminal proceeding titled *People v.*
24 *Sean William Pierce* (Super. Ct. San Joaquin County, 2007, Case No. TM110187A), Respondent
25 was convicted by the court on his plea of nolo contendere to violating Vehicle Code
26 section 23103, subdivision (a) ("wet and reckless" driving per Vehicle Code section 23103.5, a
27 misdemeanor). The circumstances of the crime are as follows: On or about February 27, 2007,
28 at approximately 2148 hours, an officer with the Tracy Police Department ("PD") contacted

Respondent at Great Plate Bar & Grill located at N. Central Avenue, Tracy, after the officer observed Respondent parking his vehicle on the sidewalk. Respondent had exited his vehicle and was having difficulty maintaining his balance. The officer asked Respondent to step outside with him, and noticed that Respondent had blood shot, watery eyes, slurred speech, and the odor of alcohol on his breath. The officer asked Respondent if he had been drinking. Respondent stated that he had two glasses of wine between 1800 and 1930 hours. Respondent agreed to perform a series of field sobriety tests ("FST"). During one of the tests, Respondent stated that he was drunk and had come to the bar "to get two shots, then drive home". Based on Respondent's objective symptoms of intoxication and his failed FST's, the officer placed Respondent under arrest for driving under the influence. After he was transported to the Tracy PD, Respondent completed a breath test; Respondent's results were .09% and .09%.

b. On or about January 31, 2008, in the criminal proceeding titled *People v. Sean William Pierce* (Super. Ct. Alameda County, 2008, Case No. 224280), Respondent was convicted by the court on his plea of no contest to violating Vehicle Code section 23103, subdivision (a) (reckless driving, a misdemeanor). The incident on which the conviction is based occurred on or about April 13, 2007.

SECOND CAUSE FOR DISCIPLINE

**(Use of Alcoholic Beverages to an Extent
or in a Manner Dangerous or Injurious to Oneself or Others)**

11. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (b), in that Respondent consumed alcoholic beverages to an extent or in a manner dangerous or injurious to himself and others, as set forth in subparagraph 10 (a) above.

THIRD CAUSE FOR DISCIPLINE

(Conviction Related to the Consumption of Alcoholic Beverages)

12. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (c), in that on or about April 23, 2007, Respondent was convicted of a criminal

1 offense involving the consumption of alcoholic beverages, as set forth in subparagraph 10.(a)
2 above.

3 **PRAYER**


4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 569251, issued
7 to Sean William Pierce;

8 2. Ordering Sean William Pierce to pay the Board of Registered Nursing the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

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13 DATED: 3/23/09

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15 
16 RUTH ANN TERRY, M.P.H., R.N.
17 Executive Officer
18 Board of Registered Nursing
19 Department of Consumer Affairs
20 State of California

21 Complainant
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